



Delivering Justice in an Age of Austerity: a JUSTICE Working Party responds to the crisis

A JUSTICE Working Party recommends the introduction of lower-level, qualified, trained and empowered dispute resolution officers to deal with the bulk of cases in the civil courts and tribunals. An integrated online and telephone platform – providing comprehensive legal information, advice and assistance – should support individuals through this reshaped justice system, says the Working Party.

Access to justice is the most basic requirement of our legal system. Without effective access to justice, other fundamental freedoms and rights cannot be enforced and become no more than an empty promise.

Yet the ability of ordinary people to access our justice system is dangerously limited. Cuts to legal aid and the publicly subsidised advice sector mean that legal advice and representation, already costly, has become impossible to obtain for most people. At the same time, demand for urgent legal advice is increasing as front-line services and welfare benefits are cut.

As The Rt. Hon Sir Stanley Burnton, chair of the Working Party, explains:

“The right of every person to obtain justice, by access to independent and impartial courts, is an essential element of the Rule of Law and of our democracy. For most people, including the working people so often referred to by our politicians, that right has become illusory. Our recommendations, if implemented, will ensure that ordinary people do have genuine and real access to justice, and in the medium term will lead to a less costly system of justice in our country.”

The Working Party, set up and supported by JUSTICE and drawn from its membership, features experts from across the legal profession – including academics, human rights lawyers, commercial solicitors and retired members of the judiciary – bringing with them a depth of expertise and a wealth of experience.

Now approaching its 60th anniversary, JUSTICE has a long and rich history of using working parties of its membership to effect systematic and vital change within the legal system. The Ombudsman system and Criminal Injuries Compensation Board, for example, were set up on the recommendation of previous JUSTICE working party reports. *Delivering Justice in an Age of Austerity* seeks to build on this history by making important recommendations for the revitalisation of the justice system, maximising access to justice for all.

The most radical of these recommendations is the introduction of a new primary dispute resolution officer – whom the Working Party suggests calling a registrar. Responsible for proactively case managing incoming disputes, the registrar will expertly identify the legal issues, relevant procedure, and necessary evidence in each case. Drawing on the insight gathered during the case management process, the registrar will then actively resolve many of these disputes through a combination of early neutral evaluation and mediation. Only those cases requiring high-level judicial expertise will be referred on to a judge. Low-level yet qualified and empowered, the registrar represents a significant

boost to the ability of litigants in person to effectively present their claims, as well as a sizeable saving on the expensive judicial time currently being used up in performing similar functions.

In order to guide litigants through this remodelled justice system, the JUSTICE Working Party further recommends development of an integrated online and telephone platform offering legal information, advice and assistance. Examples from other jurisdictions around the world demonstrate the power of using technology in this way to deliver legal content that is both accessible for ordinary litigants and effective in helping them to decide how, or whether, to proceed with their case. While a fully comprehensive integrated portal will take time to develop, strengthening existing telephone services will go some way towards reducing the informational deficit in the interim.

These timely recommendations offer real potential to tackle our current justice crisis head on. As Working Party member Sir Geoffrey Bindman QC explains:

“The challenge of this report was to propose reforms in the judicial system which would mitigate the denial of justice caused by savage government funding cuts without compromising fundamental safeguards – not least the right to a fair trial guaranteed by article 6 of the European Convention on Human Rights. If properly implemented, I believe that in many cases our proposals offer a better method of settling civil disputes than has existed hitherto.”

While the report represents a radical and important contribution to improving access to justice in England and Wales, the Working Party is keen to emphasise that it should not in any way be taken as an endorsement of the cuts to legal aid, nor as a justification for introducing further cuts. As JUSTICE Director Andrea Coomber comments:

“Legal aid continues to be critically important in the endeavour to ensure access to justice for all. JUSTICE will continue to fight against its erosion.”

It is a fundamental principle of our legal system that all should be equal before the courts. Yet under the current system, the simple inability to pay for legal advice and representation puts many at an automatic and serious disadvantage. As Andrea Coomber explains:

“Delivering Justice in an Age of Austerity is a project borne out of the necessity of restoring a failing justice system. This is not just about legal aid, but about an unnecessarily complex civil justice system, access to which is outside the financial grasp of most ordinary people. JUSTICE and our Working Party believe that these recommendations have the potential to transform the current crisis into an ‘age of opportunity’ – by redesigning the system with potential users in mind.”

Notes for editors

1. The Working Party included: The Rt. Hon Sir Stanley Burnton, Sir Geoffrey Bindman QC, Andrea Coomber, Carlos Dabezies, Amanda Finlay CBE, Professor Rosemary Hunter FAcSS, Sir Paul Jenkins KCB QC, Andrew Lidbetter, Andrew Lockley, Ruchi Parekh, Nigel Fleming QC, Lucy Scott-Moncrieff CBE and Professor Richard Susskind OBE. Their work was generously supported by Herbert Smith Freehills.

2. JUSTICE is an all-party law reform and human rights organisation working to strengthen the justice system – administrative, civil and criminal – in the United Kingdom. For more information about JUSTICE visit www.justice.org.uk.

3. Please direct all queries to Ruchi Parekh, Legal Officer, at RParekh@justice.org.uk or 020 7762 6414.